

REMARKS

The official action of 6 September 2011 has been carefully considered and reconsideration of the application as amended is respectfully requested.

The indication that claims 53-62 are allowed and that claims 47-52 would be allowable if rewritten in independent form is noted with appreciation.

Claims 44-46 were rejected under 35 USC 101 as allegedly being directed to non-statutory subject matter based on the Examiner's contention that the sucrose synthase of SEQ ID NO:12 could **theoretically** be found in nature. However, Applicants respectfully note that (a) this contention is merely speculative; and (b) the Examiner has offered no documentary or other support for this speculation. Applicants respectfully submit that the rejection is not proper for these reasons alone.

Moreover, Applicants respectfully refer to their Amendment filed 1 June 2011 (the contents of which are incorporated herein by reference) at page 8, paragraph 2, and the attached charts comparing the claimed amino acid and nucleotide sequences with the wild type sequences, which show that the recited SEQ ID NO: 12 differs from the wild type sequence, as described in the Baroza-Fernandez reference of record, at four (4) amino acid residues. This being the case, there is respectfully no basis for the undocumented allegation that the claimed sucrose synthase could theoretically be found in nature and the rejection is respectfully inappropriate for this reason as well. See MPEP 2144.03 ("It would not be

appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known.”)

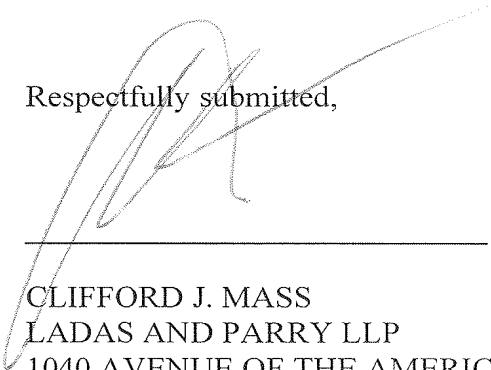
Without prejudice to the above, Applicants have rendered the issue moot by amending claims 44-46 to recite “an isolated peptide” comprising the recited sucrose synthase of SEQ ID NO: 12.

With respect to the rejection of claim 45, Applicants have rewritten the claim in independent form whereby to remove the basis for the rejection.

In view of the above, Applicants respectfully submit that all rejections and objections of record have been overcome and that the application is now in allowable form. An early notice of allowance is earnestly solicited and is believed to be fully warranted.

Please charge Account No.12-0425 for any fees which may be due by this paper.

Respectfully submitted,



CLIFFORD J. MASS
LADAS AND PARRY LLP
1040 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10018-3738
REG. NO. 30,086 (212) 708-1890